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November 14, 2008

VIA FACSIMILE:202-696-6111

The Honorable Elaine Chao
Secretary of Labor
U.S. Department of Labor
200 Constitution Avenue, NW
Room S-2018
Washington, DC 20210

RE: Notice of Proposed Rule Making, RIN 1215-AB67

Dear Secretary Chao:

This letter is in response to the Wage and Hour Division's recent Notice of Proposed Rule Making (NPRM), RIN 1215-AB67, entitled, "Protecting the Privacy of Workers: Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction." The proposed rule revises regulations pursuant to the Davis-Bacon and related Acts and the Copeland Anti-Kickback in a manner that will make future labor law enforcement more difficult. Given the significant enforcement issues at stake, we request that the Department extend the public comment period for this proposal from the current 30 days to 60 days at least.

This NPRM is the latest in a series of proposals made by the Department this year that would have the effect of frustrating future Administrations' efforts to protect workers. These proposals include the proposal on occupational health risk assessments, which would function to unnecessarily delay future action on standards to protect workers' health on the job, as well as the proposals on H-2A and H-2B foreign labor certifications, which, among other things, undermine the government's ability to enforce the requirement that U.S. workers be recruited before foreign guest workers are hired.

The present NPRM, under the auspices of "protecting the privacy of workers," undermines the government's ability to enforce the requirement that those very workers be paid prevailing wages on federally financed and assisted construction projects. The NPRM would eliminate the requirement that contractors submit, along with their weekly pay records, the addresses and

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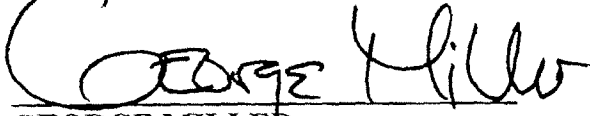
The Honorable Elaine Chao
November 14, 2008
Page 2


Social Security numbers of covered workers. This information is not useless. It is used by federal contracting officials and the Department to verify that workers actually received the wages the contractor is obligated to pay them. The NPRM states that such information could still be obtained by government officials but only if they request it from the contractor. This adds an extra step to enforcement efforts and frustrates a robust audit-based enforcement system. Moreover, unscrupulous contractors may be less likely to break the law and engage in false reporting if (1) robust auditing is possible and (2) they are required upfront to link reported payroll data to real people, with real addresses and Social Security numbers.


The Department has provided only 30 days for public comment. This major change to regulations administering Davis-Bacon, Copeland Anti-Kickback, and related statutes poses a serious challenge to effective law enforcement for future Administrations. It warrants much more study and opportunity to comment than what the Wage and Hour Division has set forth.

Accordingly, we request that the Department extend the comment period at least another 30 days for interested parties to gather further information on how this proposal may impact compliance and enforcement efforts, including on how the currently collected information has been used by the Department and federal contracting officials to enforce the law. The Administration should not truncate public notice and comment on regulatory changes that could wreck effective law enforcement mechanisms just before a new Administration begins.

Sincerely,


GEORGE MILLER
Chair


LYNN WOOLSEY
Chair
Workforce Protections Subcommittee


ROBERT ANDREWS
Chair
Health, Education, Labor, and Pensions
Subcommittee